

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 798

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO GAME AND FISH; INCREASING PENALTIES FOR VIOLATIONS
OF GAME AND FISH LAWS AND REGULATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 17-2-10 NMSA 1978 (being Laws 1931,
Chapter 117, Section 7, as amended) is amended to read:

"17-2-10. VIOLATION OF GAME AND FISH LAWS OR
REGULATIONS--PENALTIES.--

A. ~~[Any]~~ A person violating any of the provisions
of Chapter 17 NMSA 1978 or any regulations adopted by the state
game commission that relate to the time, extent, means or
manner that game animals, birds or fish may be hunted, taken,
captured, killed, possessed, sold, purchased or shipped is
guilty of a misdemeanor and upon conviction may be sentenced to
imprisonment in the county jail for a term not to exceed ~~[six~~

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1 ~~months]~~ one year. In addition, the person shall be sentenced
2 to the payment of a fine in accordance with the following
3 schedule:

4 (1) for illegally taking, attempting to take,
5 killing, capturing or possessing of each deer, antelope,
6 javelina, bear or cougar [~~during a closed season~~], a fine of
7 [~~four hundred dollars (\$400)~~] one thousand dollars (\$1,000);

8 (2) for illegally taking, attempting to take,
9 killing, capturing or possessing of each elk, bighorn sheep,
10 oryx, ibex or Barbary sheep, a fine of [~~one thousand dollars~~
11 ~~(\$1,000)~~] two thousand dollars (\$2,000);

12 (3) for hunting big game without a proper and
13 valid license, lawfully procured, a fine of [~~one hundred~~
14 ~~dollars (\$100)~~] five hundred dollars (\$500);

15 (4) for exceeding the bag limit of any big
16 game species, a fine of [~~four hundred dollars (\$400)~~] one
17 thousand dollars (\$1,000);

18 (5) for attempting to exceed the bag limit of
19 any big game species by the hunting of any big game animal
20 after having tagged a similar big game species, a fine of [~~two~~
21 ~~hundred dollars (\$200)~~] seven hundred fifty dollars (\$750);

22 (6) for signing a false statement to procure a
23 resident hunting or fishing license when the applicant is
24 residing in another state at the time of application for a
25 license, a fine of four hundred dollars (\$400);

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1 (7) for using a hunting or fishing license
 2 issued to another person, a fine of [~~one hundred dollars~~
 3 ~~(\$100)~~] two hundred fifty dollars (\$250);

4 (8) for a violation of Section 17-2-31 NMSA
 5 1978, a fine of [~~three hundred dollars (\$300)~~] five hundred
 6 dollars (\$500);

7 (9) for selling, offering for sale, offering
 8 to purchase or purchasing any big game animal, unless otherwise
 9 provided by Chapter 17 NMSA 1978, a fine of [~~one thousand~~
 10 ~~dollars (\$1,000)~~] five thousand dollars (\$5,000);

11 (10) for illegally taking, attempting to take,
 12 killing, capturing or possessing of each jaguar, a fine of [~~two~~
 13 ~~thousand dollars (\$2,000)~~] four thousand dollars (\$4,000); and

14 (11) for a violation of the provisions of
 15 Subsection A of Section 17-2A-3 NMSA 1978, a fine of [~~five~~
 16 ~~hundred dollars (\$500)~~] seven hundred fifty dollars (\$750).

17 B. A person convicted of a second or subsequent
 18 offense for illegal possession or transportation of big game
 19 during closed season, taking big game during closed season,
 20 attempting to take or taking big game by the use of spotlight
 21 or artificial light, exceeding the bag limit on any big game
 22 species during open season or hunting big game without a
 23 license is guilty of a fourth degree felony and upon conviction
 24 shall be sentenced pursuant to Section 31-18-15 NMSA 1978. A
 25 person convicted a second time for violating any of the other

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1 provisions of Chapter 17 NMSA 1978 or any regulations adopted
2 by the state game commission that relate to the time, extent,
3 means or manner that game animals, birds or fish may be hunted,
4 taken, captured, killed, possessed, sold, purchased or shipped
5 is guilty of a misdemeanor and upon conviction may be sentenced
6 to imprisonment in the county jail for a term of not more than
7 three hundred sixty-four days. In addition, the person shall
8 be sentenced to the payment of a fine in accordance with the
9 following schedule:

10 (1) for illegally taking, attempting to take,
11 killing, capturing or possessing of each deer, antelope,
12 javelina, bear or cougar [~~during a closed season~~], a fine of
13 [~~six hundred dollars (\$600)~~] two thousand dollars (\$2,000);

14 (2) for illegally taking, attempting to take,
15 killing, capturing or possessing of each elk, bighorn sheep,
16 oryx, ibex or Barbary sheep, a fine of [~~one thousand five~~
17 ~~hundred dollars (\$1,500)~~] three thousand dollars (\$3,000);

18 (3) for hunting big game without a proper and
19 valid license, lawfully procured, a fine of [~~four hundred~~
20 ~~dollars (\$400)~~] one thousand dollars (\$1,000);

21 (4) for exceeding the bag limit of any big
22 game species, a fine of [~~six hundred dollars (\$600)~~] two
23 thousand dollars (\$2,000);

24 (5) for attempting to exceed the bag limit of
25 any big game species by the hunting of any big game animal

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1 after having tagged a similar big game species, a fine of [~~six~~
2 ~~hundred dollars (\$600)~~] one thousand dollars (\$1,000);

3 (6) for signing a false statement to procure a
4 resident hunting or fishing license when the applicant is
5 residing in another state at the time of application for a
6 license, a fine of six hundred dollars (\$600);

7 (7) for using a hunting or fishing license
8 issued to another person, a fine of [~~two hundred fifty dollars~~
9 ~~(\$250)~~] five hundred fifty dollars (\$550);

10 (8) for a violation of Section 17-2-31 NMSA
11 1978, a fine of [~~five hundred dollars (\$500)~~] seven hundred
12 fifty dollars (\$750);

13 (9) for selling, offering for sale, offering
14 to purchase or purchasing any big game animal, unless otherwise
15 provided by Chapter 17 NMSA 1978, a fine of [~~one thousand five~~
16 ~~hundred dollars (\$1,500)~~] seven thousand dollars (\$7,000);

17 (10) for illegally taking, attempting to take,
18 killing, capturing or possessing of each jaguar, a fine of
19 [~~four thousand dollars (\$4,000)~~] six thousand dollars (\$6,000);
20 and

21 (11) for a violation of the provisions of
22 Subsection A of Section 17-2A-3 NMSA 1978, a fine of one
23 thousand dollars (\$1,000).

24 C. Except as provided in Subsection B of this
25 section and notwithstanding the provisions of Section 31-18-13

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1 NMSA 1978, a person convicted a third or subsequent time for
2 violating any of the provisions of Chapter 17 NMSA 1978 or any
3 regulations adopted by the state game commission that relate to
4 the time, extent, means or manner that game animals, birds or
5 fish may be hunted, taken, captured, killed, possessed, sold,
6 purchased or shipped is guilty of a misdemeanor and upon
7 conviction may be sentenced to imprisonment in the county jail
8 for a term of not less than ninety days, which shall not be
9 suspended or deferred, and not more than three hundred sixty-
10 four days. In addition, the person shall be sentenced to the
11 payment of a fine in accordance with the following schedule:

12 (1) for illegally taking, attempting to take,
13 killing, capturing or possessing of each deer, antelope,
14 javelina, bear or cougar [~~during a closed season~~], a fine of
15 [~~one thousand two hundred dollars (\$1,200)~~] five thousand
16 dollars (\$5,000);

17 (2) for illegally taking, attempting to take,
18 killing, capturing or possessing of each elk, bighorn sheep,
19 oryx, ibex or Barbary sheep, a fine of [~~three thousand dollars~~
20 ~~(\$3,000)~~] five thousand dollars (\$5,000);

21 (3) for hunting big game without a proper and
22 valid license, lawfully procured, a fine of [~~one thousand~~
23 ~~dollars (\$1,000)~~] two thousand dollars (\$2,000);

24 (4) for exceeding the bag limit of any big
25 game species, a fine of [~~one thousand two hundred dollars~~

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1 ~~(\$1,200)]~~ four thousand dollars (\$4,000);

2 (5) for attempting to exceed the bag limit of
3 any big game species by the hunting of any big game animal
4 after having tagged a similar big game species, a fine of [~~one~~
5 ~~thousand dollars (\$1,000)]~~ three thousand dollars (\$3,000);

6 (6) for signing a false statement to procure a
7 resident hunting or fishing license when the applicant is
8 residing in another state at the time of application for a
9 license, a fine of one thousand two hundred dollars (\$1,200);

10 (7) for using a hunting or fishing license
11 issued to another person, a fine of [~~one thousand dollars~~
12 ~~(\$1,000)]~~ two thousand dollars (\$2,000);

13 (8) for a violation of Section 17-2-31 NMSA
14 1978, a fine of [~~one thousand dollars (\$1,000)]~~ two thousand
15 dollars (\$2,000);

16 (9) for selling, offering for sale, offering
17 to purchase or purchasing any big game animal, unless otherwise
18 provided by Chapter 17 NMSA 1978, a fine of [~~three thousand~~
19 ~~dollars (\$3,000)]~~ ten thousand dollars (\$10,000);

20 (10) for illegally taking, attempting to take,
21 killing, capturing or possessing of each jaguar, a fine of [~~six~~
22 ~~thousand dollars (\$6,000)]~~ ten thousand dollars (\$10,000); and

23 (11) for a violation of the provisions of
24 Subsection A of Section 17-2A-3 NMSA 1978, a fine of [~~two~~
25 ~~thousand dollars (\$2,000)]~~ three thousand dollars (\$3,000).

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1 D. ~~[Any]~~ A person who is convicted of a violation
2 of any regulations adopted by the state game commission that
3 relate to the time, extent, means or manner that game animals,
4 birds or fish may be hunted, taken, captured, killed,
5 possessed, sold, purchased or shipped or of a violation of any
6 of the provisions of Chapter 17 NMSA 1978, for which a
7 punishment is not set forth under this section, shall be fined
8 not less than ~~[fifty dollars (\$50.00)]~~ five hundred dollars
9 (\$500) or more than ~~[five hundred dollars (\$500)]~~ one thousand
10 dollars (\$1,000) or imprisoned not more than six months or
11 both.

12 E. The provisions of this section shall not be
13 interpreted to prevent, constrain or penalize a Native American
14 for engaging in activities for religious purposes, as provided
15 in Section 17-2-14 or 17-2-41 NMSA 1978.

16 F. The provisions of this section shall not apply
17 to a landowner or lessee, or employee of either of them, who
18 kills an animal on private land, in which they have an
19 ownership or leasehold interest, that is threatening human life
20 or damaging or destroying property, including crops; provided,
21 however, that the killing is reported to the department of game
22 and fish within twenty-four hours and before the removal of the
23 carcass of the animal killed; and provided further that all
24 actions authorized in this subsection are carried out according
25 to regulations of the department."

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1 Section 2. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2005.

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